



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

April 9, 2013
1304-VS-04
Exhibit 1

Petition Number: 1304-VS-04

Subject Site Location: 17924 US 31 North

Petitioner: Christopher Woodard

Request: The petitioner is requesting a Variance of Standard from the Westfield-Washington Township Zoning Ordinance to allow temporary relief from the US Highway 31 Overlay Zone (WC 16.04.070).

Current Zoning: Enclosed Industrial (EI)

Current Land Use: Commercial/Office

Approximate Acreage: 3 acres

Exhibits:

1. Staff Report
2. Aerial Location Map
3. Site Plan

Staff Reviewer: Kevin M. Todd, AICP

Petition History

This petition will receive a public hearing at the April 9, 2013 Board of Zoning Appeals meeting.

Property Location and Project Description

The subject property is approximately three (3) acres in size and is located at 17924 U.S. 31 North (the "Property"). The Property is currently accessed by Park 31 Drive. The Property is zoned Enclosed Industrial (EI) and is located within the U.S. Highway 31 Overlay Zone.

This variance request is a companion to the Variance of Use case number 1304-VU-02, which is a variance request to allow a landscaping business on the Property. The U.S. Highway 31 Overlay Zone ordinance (the "Overlay") states that if a facility changes to a type of use different from what it was when the Overlay standards were adopted, then the site is subject to all of the Overlay standards. This means that if 1304-VU-02 is approved by the Board of Zoning Appeals (the "BZA"), the Property and the building on the Property are required to meet the current Overlay standards.



Applying the Overlay standards to the Property would require the existing building to be brought into compliance with all of the Overlay's standards, including: meeting the use requirements, lot size, setbacks, building height, minimum gross floor area, lot coverage, architectural requirements, and screening requirements.

It should be noted that, if 1304-VU-02 is not approved, then this variance request (1304-VS-04) is not necessary.

Procedural

A Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under Ind. Code § 36-7-4-918.5 only upon a determination in writing that:

1. *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*

Finding: It is unlikely that the re-use of an existing building and site for a temporary period of time would be injurious to the public health, safety, morals, and general welfare of the community. The proposal was reviewed at the March 19, 2013 Technical Advisory Committee meeting and there were no safety concerns discussed at the meeting.

2. *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

Finding: It is unlikely that the use and value of adjacent property will be affected in a substantially adverse manner. The Property and the surrounding area were developed without the existing U.S. Highway 31 Overlay standards being in effect. None of the surrounding area complies with the Overlay standards. Approving the variance would result in the character of the area to remain unchanged.

3. *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.*

Finding: Strict adherence to the Zoning Ordinance would mean that the existing building and site conditions would be required to comply with the U.S. Highway 31 Overlay standards. The required improvements would be significant and the petitioner has stated that making them would be burdensome to the operation of the business at this temporary location.



Recommendations

Approve 1304-VS-04 based on the findings of this report, with the following conditions:

1. That the approval of this variance shall expire on December 31, 2015.
2. That any request to extend the time limit for this variance shall be reviewed and approved by the Board of Zoning Appeals prior to December 31, 2015.
3. That a new application shall be submitted by June 30, 2015 to the Community Development Department if an extension to the time limit for the variance is requested.